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THOMAS BALCH

AND

THE GENEVA TRIBUNAL

EDMONDS AND PERRINE

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THOMAS BALCH
AND
THE GENEVA TRIBUNAL

SPEECH

BY

FRANKLIN SPENCER EDMONDS

AND

AN ARTICLE

BY

WILLIAM PERRINE

PHILADELPHIA

1909



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REPORT OF THE

COMMISSIONER OF THE

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THOMAS BALCH
AND
THE GENEVA TRIBUNAL.

AN Arbitration and Peace Congress was held in Philadelphia from Saturday, May the 16th, to Tuesday, May the 19th, 1908, both inclusive. At the opening session on Saturday, May 16th, in Horticultural Hall, Governor Stuart presided. There were seated on the platform with him the Hon. Wayne MacVeagh, Ex-Attorney General of the United States, Joseph Swain, President of Swarthmore College, Dr. Trueblood, of Boston, Mr. Edwin D. Meade, of Boston, and others. After some introductory remarks by Governor Stuart, Mr. Franklin Spencer Edmonds, of the Philadelphia Bar, Chairman of the Executive Committee in charge of the arrangements, formally welcomed the delegates to Philadelphia.

Mr. Edmonds in his speech, published in the *Record* of Philadelphia, of May 17th, 1908, said:—

“We do not expect that there will be perfect agreement concerning methods, but we do expect that there will be perfect agreement in the ideal.”

After speaking of the work of Penn and Franklin for international peace, the many arbitrations to which America has been a party, and the arbitration treaties it has concluded with other Powers, he continued:—

“There is a peculiar significance in the association of international arbitration with this city. Probably the most important arbitration in the history of diplomacy was that which was held at Geneva for the settlement of the Alabama claims, when the old practice of submitting arbitration to a sovereign was abandoned and the new practice, which involved the creation of a judicial tribunal, was established. Through the courtesy of one of the members of our Executive Committee, Charles C. Binney, I have had placed in my hands the record of the work of Thomas Balch, a citizen of Philadelphia, for many years an honored member of the Philadelphia Bar, and one of the foremost citizens of his day, and from this record it is clear that the original suggestion of arbitration of the Alabama claims came from one of our own body of citizens.

“Mr. Balch was in France in 1864, and was in Cherbourg at the time of the fight between the *Alabama* and the *Kearsarge*. A few days after the victory of the American boat, he entertained its officers at dinner, and was much impressed with their atti-

tude toward England. Upon further reflection and deeper acquaintance with the attitude of his countrymen toward England, it seemed clear to Mr. Balch, as well as the leading statesmen at the time, that there was in these claims the seed of war. In considering how this strife between two great nations might be avoided, he matured the plan of a Court of Arbitration, and in November of 1864 he had a long interview with Mr. Lincoln on the subject. Quoting, however, his own notes, he said:—

“‘In speaking of England, I suggested an arbitration court as possible at a future day.’ Mr. Lincoln in turn added: ‘A very amiable idea, but not possible just now, as the millennium is still a long ways off. But,’ he added, ‘there is no possible risk of a quarrel with England as we have enough on our hands. One quarrel is enough for a nation or a man at a time.’ As to the proposed court of arbitration he said: ‘Start your idea; it may make its way in time, as it is a good one.’

“‘In May of 1865, Mr. Balch wrote a letter to the New York *Tribune*, and with the powerful assistance of Horace Greeley the subject was now brought to public attention. Seven years after in the treaty of Washington his idea found complete expression. His work in this particular has been forgotten, the historians of arbitration have but scant mention of

his name, and yet the work of this Philadelphia lawyer in suggesting the establishment of a court to decide questions of right and wrong between the two leading Anglo-Saxon nations, was probably the initial force that has led to the success of the great movement of international arbitration.

"It is, then, to the City of Penn, of Franklin and of Balch, that we bid you welcome."

On Monday evening, May the 18th, the editor of the *Evening Bulletin*, Mr. William Perrine, devoted more than a column of his editorial page to the following account of the part that a member of the Philadelphia Bar had taken in the settlement of the "Alabama claims" by the submission of those claims to the decision of an international court of arbitration. Mr. Perrine wrote as follows:—

"The sessions of the Pennsylvania Peace Conference on the subject of international arbitration serve as a reminder of the manner in which the most important act of that nature on the part of the United States was brought about largely by a citizen of Philadelphia. Under the administration of President Grant there was no achievement, in our foreign policy, that gave it more distinction than the negotiation with Great Britain for a method of settling the dispute over the damages which had been inflicted on Northern ships and commerce during the Civil War

by the operations of Confederate cruisers, notably the famous Alabama. The British government had declined to recognize the validity of the claims; they were insistently pressed by the United States, and there was much bitterness of feeling in the controversy. During the Civil War there were many Northern men who had believed that the conduct of the English in encouraging or permitting the construction or the equipment of vessels to be used in the Confederate service, together with expressions of sympathy for the Confederacy by a large portion of the English and among English men of affairs, justified belligerent reprisals. After the war had ended and the question came up at close range as to the reparation that was due to the government at Washington for the depredations committed by the Alabama and other craft of its kind, this feeling broke forth on several occasions in the midst of the delay and difficulties in arriving at a diplomatic settlement of the question, and it was believed by many Americans that war could not ultimately be averted. But after several years of correspondence and negotiation the treaty was made for the arbitration which was effected by Joint High Commission that sat at Geneva and the result was the award of fifteen million dollars to the United States and the complete abatement of the contention as a possible cause of war.

“The original impetus to the movement which eventuated in this arbitrament had come from Thomas Balch toward the close of the Civil War. A member of the Philadelphia Bar, and an accomplished student of diplomacy and foreign affairs, Mr. Balch, who once sat in Councils as a representative of the Eighth Ward, had lived for some years abroad, and was a respected and influential member of the American colony in Paris. He had seen, off the French coast at Cherbourg, the battle in which the Kearsarge sank the Alabama; he thoroughly understood the gravity of the danger of war by reason of the demands for satisfaction to this country for what the Alabama had done, and he conceived that it was the duty of wise men to favor and secure the adoption of some peaceable solution of the disputes. He opened correspondence with both American and English statesmen to that end; he employed his skill with the pen in enlisting public opinion through the press in support of such a policy, and he brought to the discussion the resources of his scholarly equipped mind. It was his thought that a court of arbitration should be created by the two countries, and that to it all the quarrels growing out of what came to be known as the ‘Alabama claims’ should be referred.

“Towards the close of 1864, while on a visit to this

country, he had an interview with President Lincoln. Mr. Thomas Willing Balch, of this city, when going over his father's papers years ago, after his death, found therein some notes of the conversation. It seems to have related chiefly to international politics; the French project for setting up the Archduke Maximilian as Emperor of Mexico was talked of, and there was some discussion as to the attitude of England toward the Union. According to these notes. Mr. Lincoln ridiculed the Mexican Empire, declaring that it was 'a pasteboard concern on which we won't waste a man nor a dollar,' and that it 'would soon tumble to pieces and, maybe, bring the other down with it.' As to England, Mr. Balch mentioned the proposed Court of Arbitration, but Mr. Lincoln observed that while the idea was a good one in the abstract, it was neither possible nor popular, as regarded the temper of the American people at that time. He called it 'a very amiable idea, but not possible just now, as the millennium is still a long way off,' and he thought, too, that there was then no risk of a quarrel with England, inasmuch as we had enough on our hands and one quarrel at a time should suffice for a nation or a man. Nevertheless, he felt that arbitration was worth airing. 'Start your idea,' he said to Mr. Balch, 'it may make its way in time, as it is a good one.'

“When the Philadelphian returned to Europe, not long afterward, he went to London and submitted it to Richard Cobden, who was the only man there that received it with any favor. Everybody else treated it, according to Mr. Balch’s recollection, as ‘the conceit of a well-meaning, weak-minded enthusiast.’ But Cobden wrote him some kind letters, and it was afterward believed that only his untimely death prevented him from bringing up the subject before the House of Commons. In this country, the aversion to it was even stronger. It was difficult to find an editor who would give attention to a drafted outline of the proposed Court of Arbitration until Horace Greeley made room for it in the columns of the *Tribune*, and Mr. Balch afterwards recorded his belief that it was mainly due to Greeley that the idea was not strangled at its birth. Its author found, on his next visit to this country, that some people profanely declared that he had become a “Britisher” by reason of his absence from his native land, and he personally received angry or contemptuous rebuffs for having advanced the proposition.

“It was in the spring of 1865 that the *Tribune* published the letter in which he explained it. He took the ground that both England and the United States preferred claims which perhaps would lead to war if they were not judiciously managed; that the Amer-

ican claims were chiefly the result of the depredations of the Alabama, that there were British claims which rested on questions of law, and that neither set of claims was strictly national, but, rather, were those of individuals, merchants and ship owners; that war would be a barbarous, unsatisfactory and most expensive way of settling them, and that the Christian and civilized way of ascertaining their validity and extent should be by arbitration. Therefore, he proposed that each party should select some competent jurist, these two to select an umpire and the decisions of the court to be final and without appeal. He admitted that it might be difficult to find gentlemen not already biased by their feelings or committed by their opinions, but he suggested M. Kern, who was then the Swiss Minister to France and who had been President of the Federal Council of Switzerland, as a type of the enlightened and impartial statesmen in whom general confidence could be placed. 'The abandonment,' he said, 'of the old system of arbitration through reference to a sovereign—more or less unfit from the very nature of his position—and the introduction of a tribunal almost republican in its character, whose decisions would have a weight as precedents and as an authority heretofore unknown in expositions of international law, would be no trifling events in the march of Democratic Freedom.'

“There were some thoughtful European scholars or publicists who recognized the desirability of these propositions, although in this country the reception which was given to his letter proved very conclusively that it was not popular. It was only little by little and from year to year that the idea of arbitrating the ‘Alabama claims’ gained ground, and it was not until 1871 that a basis of adjudication was reached by the Treaty of Washington. This provided for five arbitrators—one to be named by the United States, one by England, one by the King of Italy, one by the Emperor of Brazil and one by the President of the Swiss Confederation, and it was this tribunal which decided the cases at Geneva in 1872. Of course, long before that time there were many statesmen on both sides of the Atlantic who were ready to appropriate to themselves the credit for having originated the solution of the problem and preserved the peace between the United States and England. But the evidence is conclusive that Mr. Balch had first suggested it for discussion and that it was new—at least as applied to the quarrel with England—to Mr. Lincoln when he told him to ‘start’ it. Mr. Balch, however, saw clearly that there were wars or causes of war which no system of arbitration could ever be likely to prevent entirely, but in his writings on the subject he thought that a better-

ordered system of international law could be, and would be, organized between the nations, and he pointed out more than thirty years ago how the trend of events was moving toward the sentiments which now find expression in 'Peace Conferences' and 'Congresses.' At that time Whitelaw Reid, still a young man, was the chief editorial writer of the *Tribune*, and it was his habit to commend to newspaper men the study of international law as one of the branches of knowledge on which it was especially incumbent upon them to be well-informed. There was no doubt in Reid's mind about the man to whom the credit of initiating the discussion of the most practical measure of saving the United States and England from war belonged. 'About nine years ago,' he wrote in 1874, 'the *Tribune* published a letter from Mr. Thomas Balch, recommending almost precisely the plan of arbitration in the Alabama case which, after infinite discussion, was finally adopted and carried out to a satisfactory conclusion at Geneva.'

"In a Peace Conference sitting in Philadelphia it would be eminently fit to-day that Balch's name should be honorably and gratefully recalled."



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